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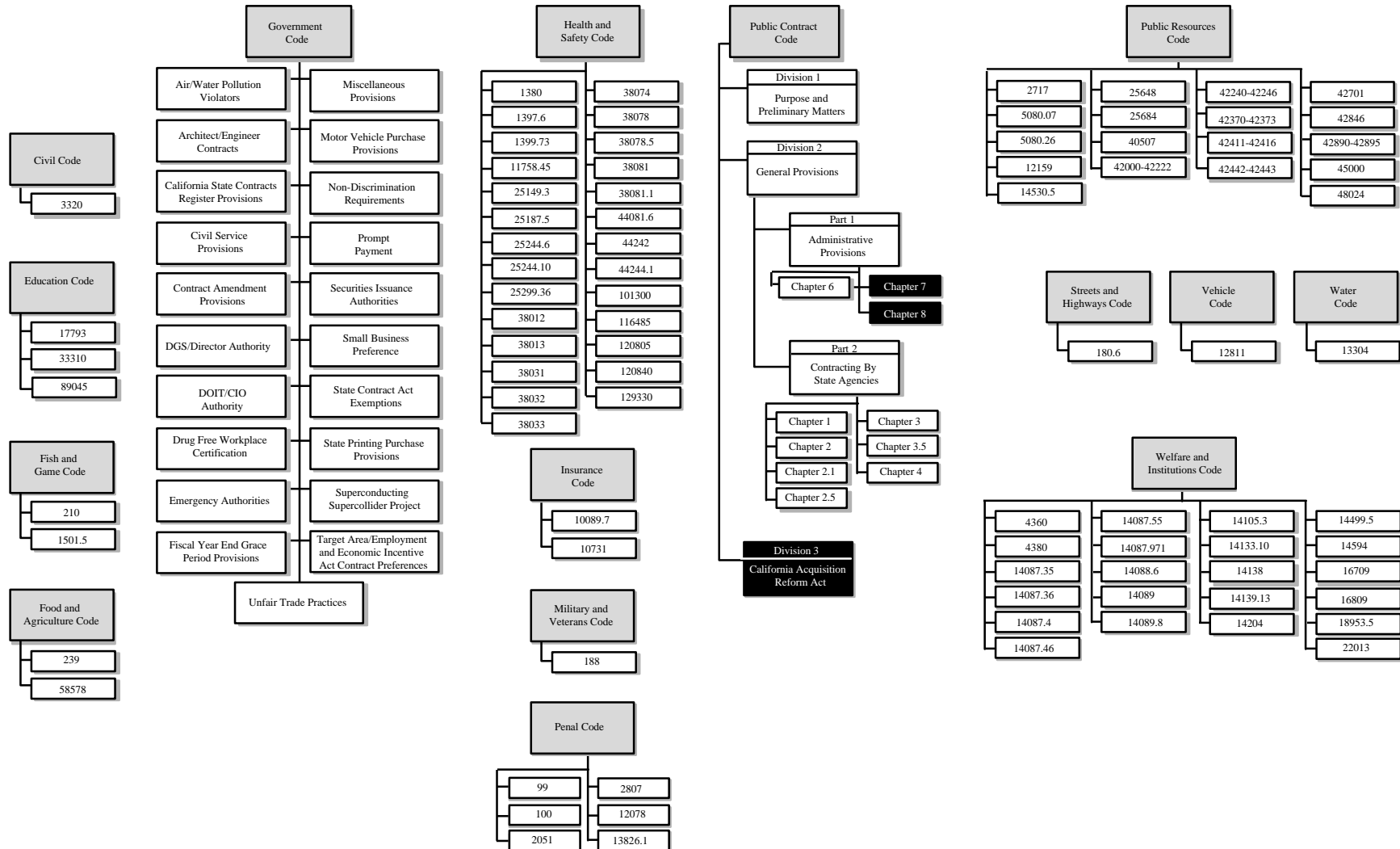
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I. The Current State

A. Overview of Affected Public Contracting Statutes



Denotes substantially or entirely new Public Contract Code division or chapter.

I. The Current State

B. Affected Government Code Provisions

Air/Water Pollution Violators

- ☐ 4475 ☐ 4478 ☐ 4481
☐ 4476 ☐ 4479 ☐ 4482
☐ 4477 ☐ 4480

Architect/Engineer Contracts

- ☐ 14952

California State Contracts Register Provisions

- ☐ 14825 ☐ 14827.1 ☐ 14829
☐ 14825.1 ☐ 14827.2 ☐ 14829.1
☐ 14826 ☐ 14827.3 ☐ 14829.2
☐ 14827 ☐ 148278

Civil Service Provisions

- ☐ 19131 ☐ 19132

Contract Amendment Provisions

- ☐ 11010.5

DGS/Director Authority

- ☐ 11712 ☐ 14600
☐ 14616 ☐ 14626

DOIT/CIO Authority

- ☐ 11712 ☐ 14626

Drug-Free Workplace Certification

- ☐ 8355 ☐ 8356

Emergency Authorities

- ☐ 8670.56.6

Fiscal Year End Grace Period Provisions

- ☐ 13332.17

In-State/Made-in-USA Preferences

- ☐ 4300 ☐ 4303.5 ☐ 4332
☐ 4301 ☐ 4304 ☐ 4333
☐ 4302 ☐ 4305 ☐ 4334
☐ 4302.5 ☐ 4330 ☐ 4360
☐ 4302.6 ☐ 4331 ☐ 4361
☐ 4303

Miscellaneous Provisions

- ☐ 11080 ☐ 14920 ☐ 14955
☐ 11081 ☐ 14921

Motor Vehicle Purchase Provisions

- ☐ 13332.09

Non-Discrimination Requirements

- ☐ 12990

Prompt Payment

- ☐ 926.15 ☐ 926.17

Securities Issuance Authorities

- ☐ 8670.53.95 ☐ 14568 ☐ 15729
☐ 14562.11 ☐ 15373.71

Small Business Preference

- ☐ 14837 ☐ 14838

State Contract Act Exemptions

- ☐ 14955 ☐ 15813.4

State Printing Purchase Provisions

- ☐ 14860

Superconducting Supercollider Project

- ☐ 8790.42

Target Area/Employment and Economic Incentive Act Contract Preferences

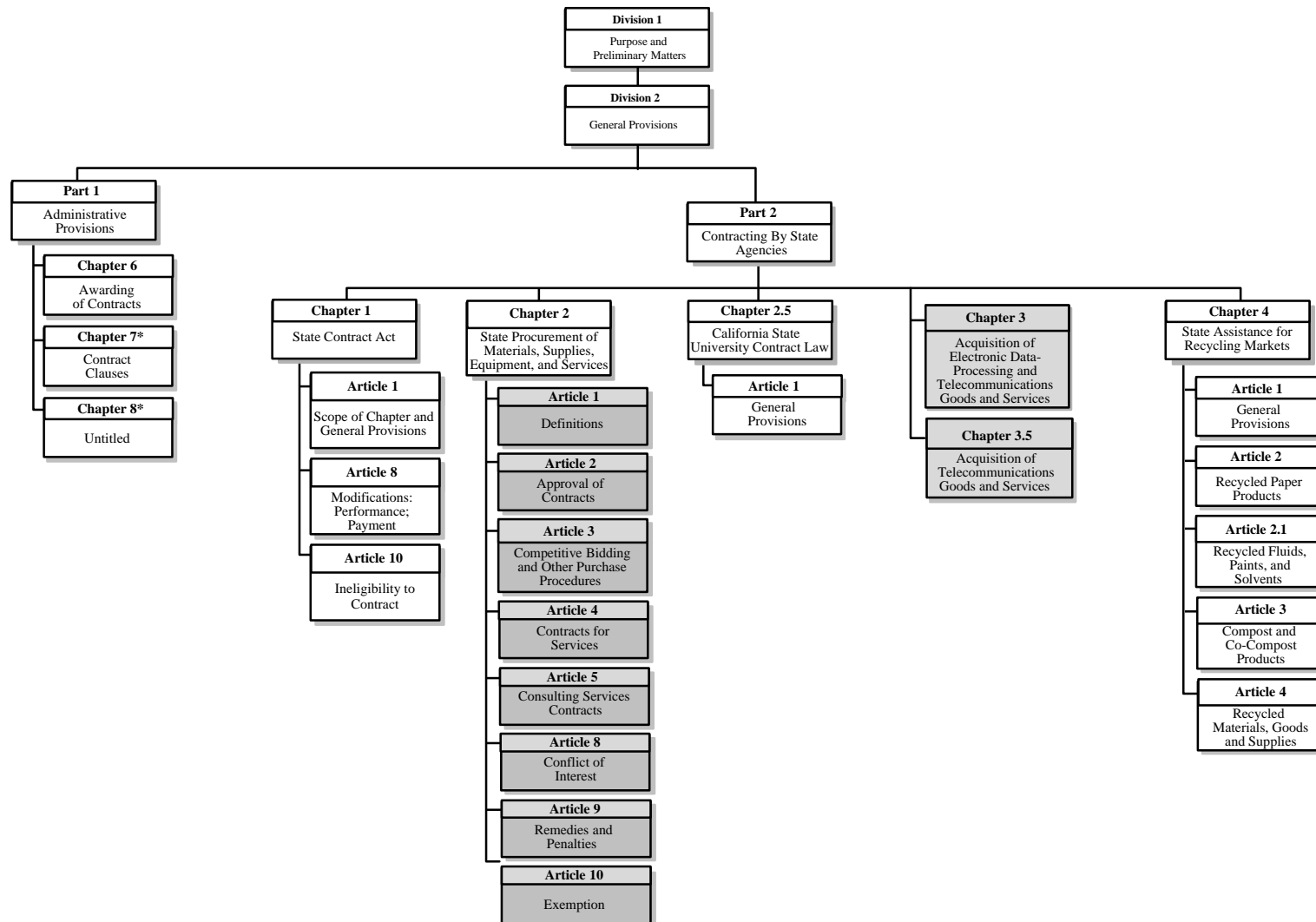
- ☐ 4533 ☐ 7084

Unfair Trade Provisions

- ☐ 4550 ☐ 4553
☐ 4552 ☐ 4554

I. The Current State

C. Affected Public Contract Code Provisions

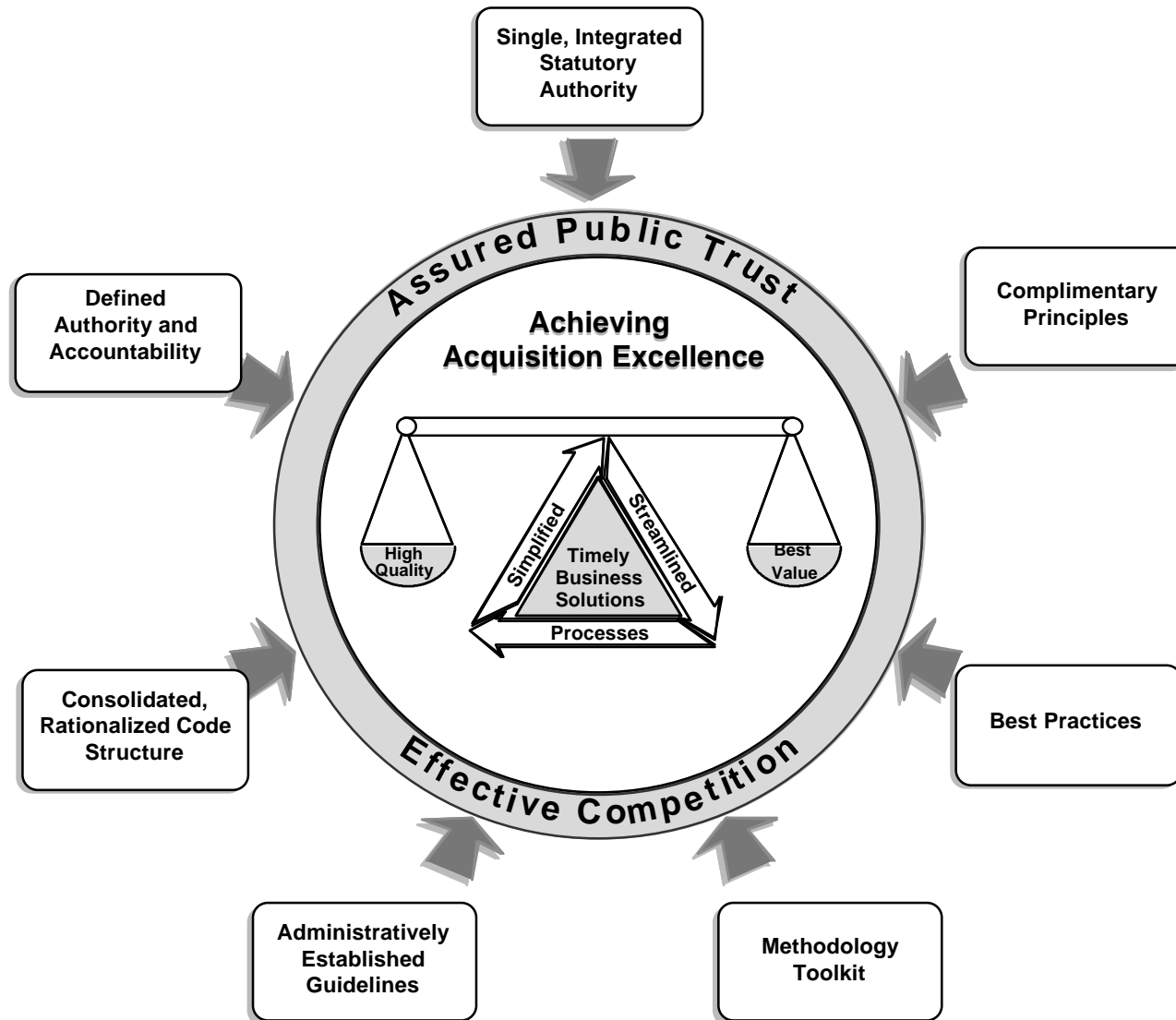


* Asterisk denotes substantially or entirely new Public Contract Code chapters.

Shading denotes Public Contract Code chapters or articles repealed in their entirety.

II. The Future State

A. Guiding Principles



II. The Future State

B. Summary Comparison of DGS Public Contracting Authority and Responsibility

Area	Current Code	California Acquisition Reform Act
DGS Services and Consulting Services Oversight and Exemption Authority (Services)	<ul style="list-style-type: none"> ❑ Provides that any service and consulting service contract entered into by any state agency is of no effect (void) unless and until approved by DGS ❑ Allows DGS to exempt from its approval service and consulting service contracts under specified conditions, requirements, and DGS oversight ❑ Assigns responsibility for deciding award protests to DGS <p>Key References: P.C.C. 10335, P.C.C. 10343, P.C.C. 10351, P.C.C. 10352, P.C.C. 103660, P.C.C. 10364, P.C.C. 10366, and P.C.C. 10378</p>	<ul style="list-style-type: none"> ❑ Consistent with the department's general powers under the Government Code, assigns DGS responsibility to implement all provisions of the California Acquisition Reform Act (Division 3 of the Public Contract Code) governing all types of goods and services acquisitions from non-governmental sources ❑ Continues to allow DGS to provide a broad range of centralized support services to public agencies and suppliers ❑ Continues to allow DGS to consolidate requirements and establish contracts for goods and services needed by multiple state agencies, and also allows DGS to establish contracts in cooperation with other governmental entities ❑ Continues to provide DGS with review and approval authority over state agency contracts ❑ Continues to provide that contracts/amendments are not valid or enforceable without DGS approval ❑ Continues to allow DGS director to exempt contracts from departmental/director approval, subject to specified conditions, requirements, and DGS oversight ❑ Consolidates award protest resolution authority within DGS ❑ Strengthens DGS oversight responsibilities (e.g., acquisition planning and contract management, performance, and quality assurance reviews) ❑ Maintains existing DOIT and DGS responsibilities for development of IT policies and procedures, respectively <p>Key References: G.C. 14626, P.C.C. 25070, P.C.C. 25071, P.C.C. 25072, P.C.C. 25073, P.C.C. 25143, P.C.C. 25310, P.C.C. 25312, P.C.C. 25352, P.C.C. 25253, P.C.C. 25400, P.C.C. 25401, and P.C.C. 25460</p>
DGS Materials, Supplies and Equipment Acquisition and Delegation Authority (Goods)	<ul style="list-style-type: none"> ❑ Requires that every purchase of supplies or equipment in excess of \$100 for any state agency must be made by or under the supervision of DGS ❑ Allows DGS to delegate authority to purchase materials, supplies, and equipment subject to specified conditions, requirements, and DGS oversight <p>Key References: P.C.C. 10308, P.C.C. 10330, P.C.C. 10331, P.C.C. 10322, P.C.C. 10333</p>	
DGS Technology Acquisition and Delegation Authority (Technology)	<ul style="list-style-type: none"> ❑ Provides that all contracts for the acquisition of EDP or telecommunications must be made by or under the supervision of DGS ❑ Allows DGS to delegate authority for the acquisition of EDP and telecommunications goods and services ❑ Defines responsibilities of DOIT and DGS for development of policies and procedures, respectively ❑ Defines DGS responsibility for development of rules and regulations <p>Key References: P.C.C. 12100, P.C.C. 12101, P.C.C. 12105, and P.C.C. 12106</p>	

II. The Future State

B. Summary Comparison of DGS Public Contracting Authority and Responsibility (continued)

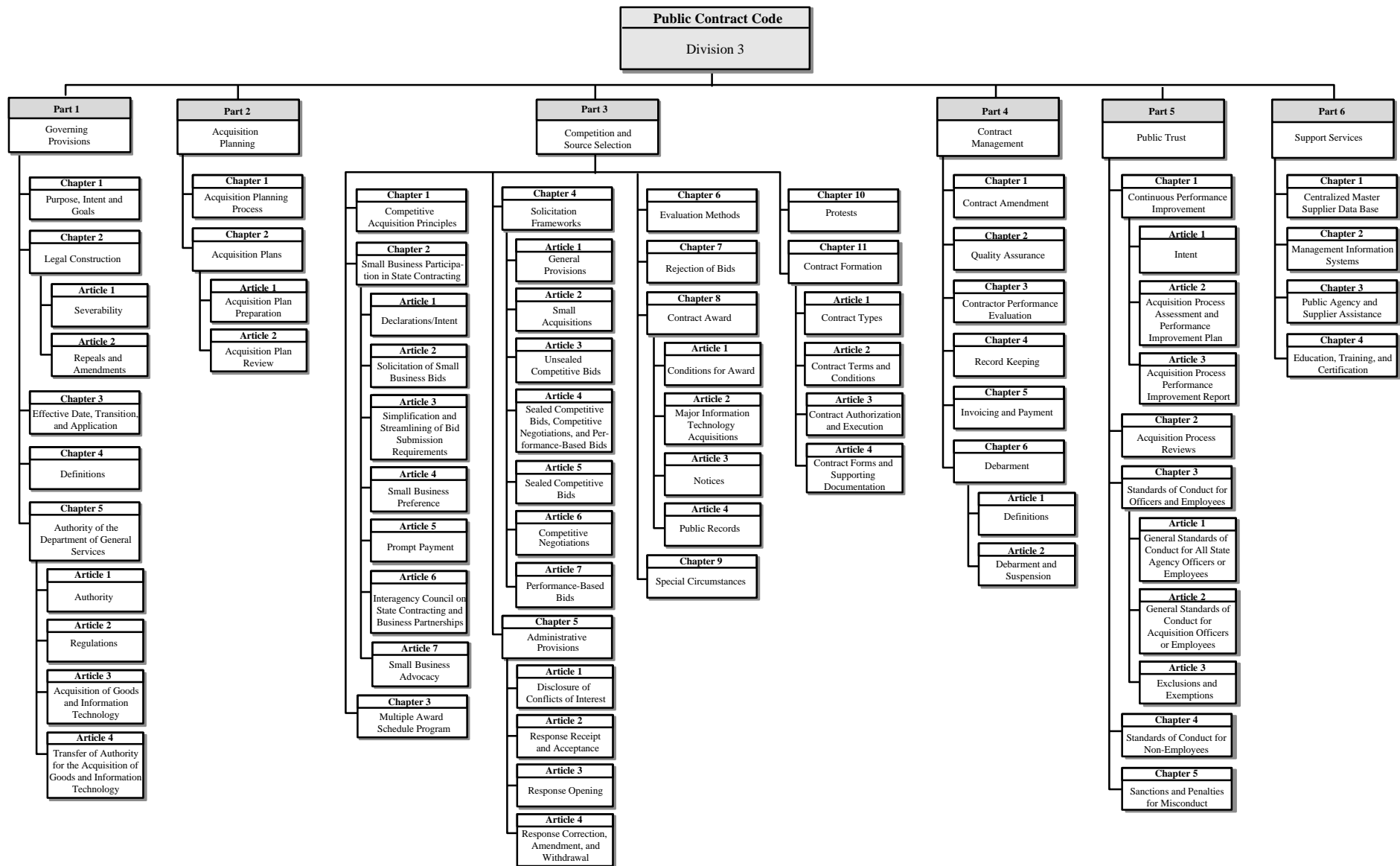
Area	Current Code	California Acquisition Reform Act
DGS Contract Approval and Associated Exemption Authority	<ul style="list-style-type: none"> <input type="checkbox"/> Provides that any contract entered into by any state agency is void unless and until approved by DGS <input type="checkbox"/> Exempts certain transactions from DGS approval (e.g., large-scale specified public works contracts) <input type="checkbox"/> Exempts various agencies, programs, circumstances, transaction types, etc.. from Public Contract Code, DGS approval, and/or specific provisions within the Public Contract Code* <p>Key References: P.C.C. 10295, P.C.C. 10297</p> <p>*References scattered throughout the statutes</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Continues to provide DGS with review and approval authority over state agency contracts other than acquisitions of goods and services from non-governmental sources <input type="checkbox"/> Continues to provide that contracts/amendments are not valid or enforceable without prior DGS approval <input type="checkbox"/> Prohibits DGS director from exempting some categories of contracts from department approval (e.g., specified categories of service and consulting service contract, where determined necessary to conserve the rights and interest of the state, etc.) <input type="checkbox"/> Grandfathers existing statutory and administratively established exemptions in specified areas <input type="checkbox"/> Continues to exempt specified state agency contracts from Public Contract Code requirements and/or DGS approval <p>Key References: P.C.C. 8000 AND P.C.C. 8070</p>
DGS Organic Law	<ul style="list-style-type: none"> <input type="checkbox"/> Creates DGS to provide centralized business services, including purchasing <input type="checkbox"/> Provides DGS with general powers of supervision over all matters concerning the financial and business policies of the state <input type="checkbox"/> Allows DGS director to exempt from departmental/director approval any transactions not exceeding \$50,000 <p>Key References: G.C. 14600, G.C. 14608, G.C. 14615, G.C. 14616, G.C. 14618, and G.C. 14619</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Maintains existing DGS authority and general powers <input type="checkbox"/> Repeals blanket \$50,000 transaction exemption limit <input type="checkbox"/> Allows transaction exemption levels to be established administratively where not otherwise set forth in statute <p>Key References: G.C. 14600, G.C. 14608, G.C. 14615, G.C. 14616, G.C. 14618, and G.C. 14619</p>
Transfer of Goods and Technology Acquisition Authority	Not Applicable	<ul style="list-style-type: none"> <input type="checkbox"/> Provides for the transfer of authority from DGS to state agencies to contract, on their own behalf for goods and information technology beginning January 1, 2000 <p>Key References: G.C. 25100, G.C. 25101, G.C. 25102, and G.C. 25110</p>

II. The Future State

C. Construction Improvements

Subject Area	Current Codes	California Acquisition Reform Act
1. Framework	<ul style="list-style-type: none"> • Fragmented • Compartmentalized • Piecemeal/Patchwork 	<ul style="list-style-type: none"> • Logical • Cohesive • Balanced
2. Completeness	<ul style="list-style-type: none"> • Lots of redundancy . . . and lots of gaps 	<ul style="list-style-type: none"> • Comprehensive
3. Detail	<ul style="list-style-type: none"> • Abundant in some areas . . . absent in others 	<ul style="list-style-type: none"> • Minimized
4. Clarity	<ul style="list-style-type: none"> • Too precise in some areas . . . and vague, obscure, and ambiguous in others 	<ul style="list-style-type: none"> • Simplified • Coherent • Easy to Understand
5. Consistency	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Uniform
6. Flexibility	<ul style="list-style-type: none"> • Constraining 	<ul style="list-style-type: none"> • Enabling
7. Adaptability	<ul style="list-style-type: none"> • Limited 	<ul style="list-style-type: none"> • Accommodating
8. Decision-Making	<ul style="list-style-type: none"> • Controlling 	<ul style="list-style-type: none"> • Empowering
9. Focus	<ul style="list-style-type: none"> • Process 	<ul style="list-style-type: none"> • Business Solution
10. Results	<ul style="list-style-type: none"> • Limited Competition • Extended Cycle Times • Higher Costs • Lower Quality 	<ul style="list-style-type: none"> • Value • Efficiency • Timeliness • Public Trust

III. California Acquisition Reform Act of 1997



IV. Sectional Description of Legislation

<u>SEC. NO.</u>	<u>CODE</u>	<u>ACTION</u>
SEC. 1	Education, Section 17793	DELETES language which says the board may from time to time solicit bids from, and award to, the lowest responsible competitive bidder in contracting for portable classrooms. This language would be duplicative of language in the proposed new Division 3 of the Public Contract Code (SEC. 156 of this bill).
SEC. 2	Education, Section 33310	TECHNICAL AMENDMENT (adds clarifying descriptor of items which the Department of Education may sell).
SEC. 3	Education, Section 89045	TECHNICAL AMENDMENT (updates several code references)
SEC. 4	Fish and Game, Section 210	DELETES the language exempting certain transactions from the Public Contract Code
SEC. 5	Fish and Game, Section 1501.5	DELETES references to the Public Contract Code which are no longer necessary as a result of language in the proposed Division 3 of the Public Contract Code (SEC. 156 of this bill).
SEC. 6	Food and Agriculture, Section 239	TECHNICAL AMENDMENT (changes a reference to Section 10290 of the Public Contract Code to the new Division 3 of the Public Contract Code)
SEC. 7	Food and Agriculture, Section 58578	REPEALS language which states that all project agreements, unless exempted by DGS, shall be submitted to DGS for approval, and that DGS has 15 working days to review and approve or disapprove. This language would be duplicative of language in the proposed new Division 3 of the Public Contract Code (SEC. 156 of this bill).
SEC. 8	Government, Section 926.15	REPEALS prompt payment language (replaced by the California Prompt Payment Act) in SEC. 8.5
SEC. 8.5	Government, Section 926.15	ADDS the "California Prompt Payment Act"
SEC. 8.7	Government, Section 926.17	REPEALS prompt payment language (replaced by the California Prompt Payment Act) in SEC. 8.5

<u>SEC. NO.</u>	<u>CODE</u>	<u>ACTION</u>
SEC. 8.9	Government, Section 1099	TECHNICAL AMENDMENT (relocates current language in Section 10410 of the Public Contract Code to the Government Code)
SEC. 9	Government, Chapter 4, Section 4300	<p>REPEALS the “California Buy American Act” and “Buy California” provisions from the Government Code. The former were found to be an unconstitutional encroachment upon the federal government’s exclusive power over foreign affairs. Government Code annotation: Bethlehem Steel Corp. v. Board of Com’rs of Dept. of Water and Power of City of Los Angeles (App. 1969) 80 Cal. Rptr. 800, 276 Cal. Ap. 2d 221.</p> <p>The latter (“buy California” provisions) were subsequently opined to be unconstitutional (53 Ops. Atty. Gen. 72, 2-11-70). These provisions are not currently enforced.</p>
SEC. 10	Government, Chapter 8, Section 4475	REPEALS certain Government Code language, which is reenacted as Section 8060 of the Public Contract Code (part of SEC. 87 of this bill).
SEC. 11	Government, Section 4533	<p>CHANGES the Target Area Contract Preference Act as follows:</p> <p>1) TECHNICAL AMENDMENT (changes “invitation to bid” to “solicitation”)</p> <p>2) ADDS language which would require that California-based firms <u>manufacture</u> goods in certain areas in order to qualify for the preference as it applies to the acquisition of goods.</p>
SEC. 12	Government, Chapter 11, Section 4550	REPEALS certain Government Code language which is reenacted as Sections 7200-7203 of the Public Contract Code (SEC. 81-84 of this bill).
SEC. 13	Government, Section 7084 (added by Section 2 of Chapter 953 of Statutes of 1996)	<p>CHANGES the Employment and Economic Incentive Act as follows:</p> <p>1) TECHNICAL AMENDMENT (changes “invitation to bid” to “solicitation”, and makes other minor technical changes; changes “proposals” to “bids”)</p> <p>2) ADDS language which would require that firms be California <u>manufacturers</u> in order to qualify for the preference as it applies to the acquisition of goods.</p>

<u>SEC. NO.</u>	<u>CODE</u>	<u>ACTION</u>
SEC. 13.5	Government, Section 7084 (added by Section 2 of Chapter 955 of Statutes of 1996)	<p>CHANGES the Employment and Economic Incentive Act as follows:</p> <p>1) TECHNICAL AMENDMENT (changes “invitation to bid” to “solicitation”, and makes other minor technical changes; changes “proposals” to “bids”)</p> <p>2) ADDS language which would require that firms be California <u>manufacturers</u> in order to qualify for the preference as it applies to the acquisition of goods.</p>
SEC. 14	Government, Chapter 5.5, Section 8350	REPEALS certain Government Code language which is reenacted as Sections 8050-8054 of the Public Contract Code (Part of SEC. 114 of this bill).
SEC. 15	Government, Section 8670.53.95	REPEALS language which states that certain sections of the Public Contract Code (which are repealed by this bill) shall not apply to certain agreements entered into by the Treasurer. The new Division 3 of the Public Contract Code (SEC. 156 of this bill) exempts these particular transactions, so this language is no longer necessary in the Government Code.
SEC. 16	Government, Section 8670.56.6	<p>1) TECHNICAL AMENDMENT (changes a code reference), and</p> <p>2) DELETES exemption from Department of General Services (DGS) review and approval of certain contracts.</p>
SEC. 17	Government, Section 8790.42	REPEALS language which states that certain sections of the Public Contract Code (which are repealed by this bill) shall not apply to certain agreements entered into by the Treasurer. The new Division 3 of the Public Contract Code (SEC. 156 of this bill) exempts these particular transactions, so this language is no longer necessary in the Government Code.
SEC. 18	Government, Section 11010.5	REPEALS language that is duplicative of current law (which has been moved to Public Contract Code 8070).
SEC. 19	Government, Section 11080	REPEALS language requiring state departments to prepare and deliver to the Department of General Services all notices, advertisements or publications in any newspaper or other medium.
SEC. 19.5	Government, Section 11081	REPEALS language establishing the Department of General Services as having exclusive control of the publication of all notices, advertisements, or publications by state agencies in any newspaper or other medium.

<u>SEC. NO.</u>	<u>CODE</u>	<u>ACTION</u>
SEC. 19.7	Government, Section 11712	RELOCATES existing law contained in Sec. 12105 of the Public Contract Code.
SEC. 20	Government, Section 11740	ADDS language stating that, if an information technology advisory committee is established by the Department of Information Technology, prior to adoption, the Department of General Services shall submit proposed procedures for information technology acquisitions to the committee for review and comment.
SEC. 20.5	Government, Section 12990	1) INSERTS language which places in the DGS Director the authority for determining the applicability of nondiscrimination provisions in state contracts, and 2) makes other minor technical changes
SEC. 21	Government, Section 13332.09	1) REPEALS requirement that DGS pre-approve any acquisition of motor vehicles and general use mobile equipment, and 2) REPEALS language requiring that all passenger type motor vehicles purchased for state use be American-made (previously opined to be unconstitutional).
SEC. 22	Government, Section 13332.17	DECREASES time frame DGS has to process orders for materials, supplies and equipment each fiscal year. SUNSETS this language 1/1/2000.
SEC. 23	Government, Section 14562.11	REPEALS language which states that certain sections of the Public Contract Code (which are repealed by this bill) shall not apply to certain agreements entered into by the Treasurer. The new Division 3 of the Public Contract Code (SEC. 156 of this bill) exempts these particular transactions, so this language is no longer necessary in the Government Code.
SEC. 24	Government, Section 14568	REPEALS language which states that certain sections of the Public Contract Code (which are repealed by this bill) shall not apply to certain agreements entered into by the Treasurer. The new Division 3 of the Public Contract Code (SEC. 156 of this bill) exempts these particular transactions, so this language is no longer necessary in the Government Code.